

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JASWINDER SINGH, )  
 )  
 Plaintiff, ) No. C-09-2035 SC  
 )  
 v. )  
 ) ORDER GRANTING MOTION  
 ) TO DISMISS  
 WELLS FARGO BANK, N.A.; FIRST )  
 AMERICAN LOANSTAR TRUSTEE )  
 SERVICES; DS MORTGAGE, INC.; and )  
 DOES 1-30, inclusive, )  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

**I. INTRODUCTION**

This matter comes before the Court on the Motion to Dismiss ("Motion") filed by Defendant Wells Fargo Bank, N.A. ("Defendant" or "Wells Fargo"). Docket No. 11.<sup>1</sup> Plaintiff Jaswinder Singh ("Plaintiff" or "Singh") filed an Opposition and Wells Fargo submitted a Reply. Docket Nos. 22, 23. For the following reasons, the Court GRANTS the Motion.

**II. BACKGROUND**

According to the Complaint, on or about October 2, 2007, Plaintiff borrowed \$839,000 from Wells Fargo to purchase property

<sup>1</sup> Due to a changed hearing date, Wells Fargo re-noticed the motion. Docket No. 20.

located at 1153 Park West Drive, Pittsburg, CA 94565. See Notice of Removal, Docket No. 1, Ex. A ("Compl.") ¶¶ 2, 12. Singh is an Indian national who works as a cashier in a gas station. Id. ¶¶ 16, 18. The loan was secured by two deeds of trust. Id. ¶ 2. One of the deeds lists Singh as the borrower and Wells Fargo as the lender. Request for Judicial Notice ("RJN"), Docket No. 12, Ex. 1 ("Deed of Trust") at 1-2.<sup>2</sup> Plaintiff alleges that Wells Fargo and DS Mortgage, Inc. funded and serviced the loan, and First American Loanstar Trustee Services ("First American") was substituted in as a Trustee.<sup>3</sup> Compl. ¶¶ 3-5. Plaintiff has been unable to keep up with the payments on the mortgage. Id. ¶ 24. First American sent Plaintiff a notice of default, and the trustee's sale was set to occur on May 4, 2009. Id. ¶¶ 24, 39; RJN Ex. 2 ("Notice of Default"); RJN Ex. 3 ("Notice of Trustee's Sale").

On April 27, 2009, Plaintiff sued Wells Fargo and others in Contra Costa Superior Court. See Compl. Plaintiff accuses

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<sup>2</sup> Wells Fargo submitted a request for the Court to take judicial notice of copies of the Deed of Trust, the Notice of Default, and the Notice of Trustee's Sale. The Court may take judicial notice of facts not subject to reasonable dispute. Fed. R. Evid. 201. Courts may take judicial notice of matters of public record. Hotel Employees & Rest. Employees Local 2 v. Vista Inn Mgmt. Co., 393 F. Supp. 2d 972, 978 (N.D. Cal. 2005). Here, the three documents were recorded in the Contra Costa County Recorder's Office. The Court may take judicial notice of these documents without converting Wells Fargo's motion to dismiss into a motion for summary judgment because these documents are explicitly mentioned in, and therefore incorporated by reference into, Plaintiff's Complaint. United States v. Ritchie, 342 F.3d 903, 907 (9th Cir. 2003); Kniesel v. ESPN, 393 F.3d 1068, 1076 (9th Cir. 2005). The Court GRANTS Wells Fargo's request for judicial notice.

<sup>3</sup> On June 12, 2009, Plaintiff voluntarily dismissed all claims against DS Mortgage, Inc. Docket No. 21 ("Pl.'s Notice of Dismissal").

1 Defendants of unlawful, fraudulent, or unfair predatory real  
2 estate lending practices. Id. ¶ 14. These predatory lending  
3 practices include failing to provide proper disclosures, and  
4 charging excessive fees. Id. Plaintiff obtained a temporary  
5 restraining order enjoining the trustee's sale. See Notice of  
6 Removal Ex. A ("Temporary Restraining Order and Order to Show  
7 Cause"). Wells Fargo removed the case to this Court because the  
8 Complaint raises questions of federal law. See Notice of Removal.  
9 Wells Fargo moves to dismiss the Complaint. Mot. at 1.

### 10 11 **III. LEGAL STANDARD**

12 A motion to dismiss under Federal Rule of Civil Procedure  
13 12(b)(6) "tests the legal sufficiency of a claim." Navarro v.  
14 Block, 250 F.3d 729, 732 (9th Cir. 2001). Dismissal can be based  
15 on the lack of a cognizable legal theory or the absence of  
16 sufficient facts alleged under a cognizable legal theory.  
17 Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir.  
18 1990). Allegations of material fact are taken as true and  
19 construed in the light most favorable to the nonmoving party.  
20 Cahill v. Liberty Mutual Ins. Co., 80 F.3d 336, 337-38 (9th Cir.  
21 1996). However, the court need not accept as true legal  
22 conclusions couched as factual allegations. Ashcroft v. Iqbal,  
23 129 S.Ct. 1937, 1949-50 (2009). "Threadbare recitals of the  
24 elements of a cause of action, supported by mere conclusory  
25 statements, do not suffice." Id. at 1949. With regard to well-  
26 pleaded factual allegations, the court should assume their truth,  
27 but a motion to dismiss should be granted if the plaintiff fails

to proffer "enough facts to state a claim for relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 547 (2007).

#### IV. DISCUSSION

The Complaint consists of sixteen causes of action. See Compl. ¶¶ 42-141. In his Opposition, Plaintiff concedes that a number of his causes of action cannot survive a motion to dismiss. Opp'n at 1. Plaintiff states that he will not pursue claims under the following causes of action against Wells Fargo:

1. Those portions of the First Cause of Action, for Declaratory Relief that concern issues surrounding possession of the promissory note, placement of the note in a trust pool, and fraud on the court.
2. Third Cause of Action for Civil Conspiracy.
3. Eighth Cause of Action for Violation of California Civil Code §§ 1920 and 1921
4. Ninth Cause of Action for Violation of California Civil Code § 1916.7
5. Those portions of the Twelfth Cause of Action for Unfair Business Practice based on violations of California Business and Professions Code section 17500, et seq.
6. Thirteenth Cause of Action for Breach of Fiduciary Duty
7. Fifteenth Cause of Action for Injunctive Relief

Opp'n at 1-2. Based on Plaintiff's concession that those causes of action are untenable, the Court DISMISSES them WITHOUT LEAVE TO AMEND as to both Wells Fargo and First American. The Court addresses each of Plaintiff's remaining causes of action.

##### A. First Cause of Action for Declaratory Relief and Eleventh Cause of Action for Fraud

As his first cause of action, Plaintiff seeks declaratory

1 relief. Compl. ¶¶ 42-48. As this "cause of action" is ultimately  
2 a request for relief, in order to weigh it the Court must look to  
3 the underlying claims. See Weiner v. Klais and Co., Inc., 108  
4 F.3d 86, 92 (6th Cir. 1997). As noted above, Plaintiff has  
5 already stated that he will not pursue claims concerning "[t]hose  
6 portions of the First Cause of Action, for Declaratory Relief that  
7 concern issues surrounding possession of the promissory note,  
8 placement of the note in a trust pool, and fraud on the court."  
9 Opp'n at 1.

10 Plaintiff contends declaratory relief is still appropriate  
11 because there is an immediate and substantial dispute concerning  
12 whether Wells Fargo committed fraud in obtaining and servicing the  
13 loan. Id. at 2-3. Plaintiff's eleventh cause of action alleges  
14 fraud. Compl. ¶¶ 95-113. Allegations of fraud "must state with  
15 particularity the circumstances constituting fraud . . . ." Fed.  
16 R. Civ. P. 9(b). The plaintiff must include "the who, what, when,  
17 where, and how" of the fraud. Vess v. Ciba-Geigy Corp. USA, 317  
18 F.3d 1097, 1106 (9th Cir. 2003) (citation omitted). "The  
19 plaintiff must set forth what is false or misleading about a  
20 statement, and why it is false." Decker v. Glenfed, Inc. (In re  
21 GlenFed, Inc. Sec. Litig.), 42 F.3d 1541, 1548 (9th Cir. 1994).

22 Plaintiff alleges that "Defendants and each of them made a  
23 representation to the Plaintiff on October 2, 2007, that DS  
24 MORTGAGE had the rights and standing of a beneficiary under  
25 California Law." Compl. ¶ 102. Plaintiff alleges that "[t]his  
26 false statement was made on the Deed of Trust and presented to the  
27 Plaintiff on October 2, 2007." Id. ¶ 103. However, the Court can  
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1 find no mention of DS Mortgage, Inc. on the Deed of Trust, and on  
2 June 12, 2009, Plaintiff voluntarily dismissed all claims against  
3 DS Mortgage, Inc. See Pl.'s Notice of Dismissal. As currently  
4 pled, the Court fails to understand how Plaintiff has a viable  
5 fraud claim based on representations relating to DS Mortgage, Inc.

6 Plaintiff also alleges that defendants misrepresented and  
7 failed to disclose material facts relating to the loan  
8 transaction, including the true terms of the loan and the finance  
9 charges. Compl. ¶ 108. These allegations are not stated with the  
10 particularity required by Federal Rule of Civil Procedure 9(b).  
11 Plaintiff's eleventh cause of action for fraud is DISMISSED WITH  
12 LEAVE TO AMEND, and Plaintiff's first cause of action for  
13 declaratory relief is DISMISSED WITH LEAVE TO AMEND.

14 **B. Second Cause of Action - Demand for Accounting**

15 Plaintiff alleges a claim for accounting in order to  
16 establish what amount of money he owes Defendants. Compl. ¶¶ 49-  
17 51. "A cause of action for an accounting requires a showing that  
18 a relationship exists between the plaintiff and defendant that  
19 requires an accounting, and that some balance is due the plaintiff  
20 that can only be ascertained by an accounting." Hafiz v. Aurora  
21 Loan Servs., No. 09-1963, 2009 WL 2029800, at \*2 (N.D. Cal. July  
22 14, 2009)("Aurora")(quoting Teselle v. McLoughlin, 173 Cal. App.  
23 4th 156, 179 (2009)). Here, Plaintiff does not allege some  
24 balance is due to him. Instead, he seeks an accounting to  
25 determine how much money he owes Defendants. Compl. ¶¶ 50-51.  
26 Plaintiff does not cite any authority that supports his right to  
27 seek an accounting under these circumstances. Accordingly, the  
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1 claim for an accounting is DISMISSED WITH LEAVE TO AMEND.

2 C. Fourth Cause of Action for Violation of the Real Estate  
3 Settlement Procedures Act ("RESPA")

4 Plaintiff alleges Defendants violated RESPA, 12 U.S.C. §§  
5 2601 et seq., and RESPA's corresponding Regulation X, 24 C.F.R. §§  
6 3500 et seq. Compl. ¶¶ 9, 58-62. This statute prohibits, among  
7 other things, kickbacks and unearned fees in the mortgage lending  
8 business. See 12 U.S.C. § 2607. In his Complaint, Singh cites to  
9 the U.S. Department of Housing and Urban Development's "two-part  
10 test for determining the legality of lender payments to mortgage  
11 brokers," and Plaintiff concludes that "a violation of RESPA has  
12 occurred - i.e. 12 U.S.C. § 2607 and 24 C.F.R. § 3500.14." Id.  
13 ¶ 29. Plaintiff has sued his lender, Wells Fargo, and the  
14 trustee, First American, and the Complaint does not identify or  
15 contain detailed factual allegations concerning mortgage brokers.  
16 Based on this absence of sufficient factual allegations, dismissal  
17 of the claim is appropriate.

18 Furthermore, the statute of limitations for a violation of 12  
19 U.S.C. § 2607 is one year. 12 U.S.C. § 2614; Hafiz v. Greenpoint  
20 Mortgage Funding, Inc., No. 09-1729, 2009 WL 2137393, at \*3 (N.D.  
21 Cal. July 16, 2009) ("Greenpoint"). Here, Plaintiff admits he  
22 obtained his loan on or about October 2, 2007. Compl. ¶ 20. He  
23 did not file a lawsuit until April 27, 2009, which is over one  
24 year later. See Compl. In his Opposition, Singh contends that  
25 the statute of limitations should be equitably tolled. Opp'n at  
26 3. Equitable tolling focuses on whether there was excusable delay  
27 by the plaintiff in filing his or her lawsuit. Santa Maria v.

1 Pacific Bell, 202 F.3d 1170, 1178 (9th Cir. 2000). In his  
2 Opposition, Singh alleges that Wells Fargo continues to withhold  
3 documentation of illegal fees from him, but this bare assertion is  
4 not sufficient to explain why his delay in filing his Complaint  
5 should be excused. See Greenpoint, 2009 WL 2137393, at \*3 ("Given  
6 the factual deficiencies of the complaint, [plaintiff] . . . has  
7 no RESPA claim to toll."); Abdollahi v. Washington Mut., FA, No.  
8 09-00743, 2009 WL 1689656, at \*3 (N.D. Cal. June 15, 2009)(finding  
9 that plaintiff had not pled sufficient facts to support assertion  
10 that RESPA one-year statute of limitations should be tolled). In  
11 his Opposition, Singh also alleges Wells Fargo violated 12 U.S.C.  
12 § 2605,<sup>4</sup> which is subject to a three-year statute of limitations.  
13 Opp'n at 3. However, Plaintiff's Complaint contains no explicit  
14 discussion of this statute. Based on the one-year statute of  
15 limitations that applies to 12 U.S.C. § 2607, and the absence of  
16 sufficient factual details, the Court DISMISSES Plaintiff's RESPA  
17 claim WITH LEAVE TO AMEND.

18 D. Fifth Cause of Action for Violation of Equal Credit  
19 Opportunity Act ("ECOA")

20 Plaintiff alleges Defendants violated ECOA, 15 U.S.C. §§ 1691  
21 et seq. Compl. ¶¶ 63-67. Plaintiff alleges he is a minority  
22 borrower, and that he "applied for credit for an amount less then  
23 [sic] the amount she [sic] ultimately qualified for. Plaintiff  
24 never received denial of that application, but rather, was granted

25 \_\_\_\_\_  
26 <sup>4</sup> This statute concerns disclosures to loan applicants, and  
27 requires servicers of mortgage loans to provide notice to borrowers  
28 when there is an assignment, sale, or transfer of the servicing of  
the loan. 12 U.S.C. § 2605.



1 credit in a larger amount." Id. ¶ 66. To establish a prima facie  
2 case under ECOA, plaintiffs must demonstrate that: (1) they were a  
3 member of a protected class; (2) they applied for credit from  
4 defendants; (3) plaintiffs were qualified for the credit; and (4)  
5 despite qualification, plaintiffs were denied credit. Chiang v.  
6 Veneman, 385 F.3d 256, 259 (3d Cir. 2004). Plaintiff does not  
7 allege he was denied credit; instead, he alleges he was granted  
8 too much credit. Compl. ¶ 66. An ECOA claim is not viable under  
9 these circumstances. See Greenpoint, 2009 WL 2137393, at \*4  
10 (noting that ECOA was designed to ensure access to credit and  
11 plaintiff's allegations in foreclosure case show she obtained  
12 credit). Plaintiff's fifth cause of action is DISMISSED WITH  
13 LEAVE TO AMEND.

14 **E. Sixth Cause of Action for Violation of the Fair Housing**  
15 **Act ("FHA")**

16 Plaintiff alleges Defendants violated the FHA, 42 U.S.C.  
17 §§ 3601 et seq., by engaging in the practice of "reverse-  
18 redlining." Compl. ¶¶ 68-72. Courts have only recently begun to  
19 treat reverse-redlining claims as cognizable under the FHA, so the  
20 Ninth Circuit has not had an opportunity to rule on the matter.  
21 Where reverse-redlining claims are recognized, a four-part test  
22 governs whether a plaintiff has sufficiently pled a claim. The  
23 plaintiff must allege: (1) that he is a member of a protected  
24 class; (2) that he applied for and was qualified for loans; (3)  
25 that the loans were given on grossly unfavorable terms; and (4)  
26 that the lender either intentionally targeted him for unfair loans  
27 or currently makes loans on more favorable terms to others. Munoz

1 v. Int'l Home Capital Corp., No. 03-1099, 2004 WL 3086907, at \*4  
2 (N.D. Cal. May 4, 2004).

3 Here, Plaintiff alleges that "Defendants engaged in the  
4 practice of Reverse Redlining (the practice of targeting minority  
5 [sic] to make loans on less favorable terms than their Caucasian  
6 counterparts) in approving Plaintiff's loan." Id. ¶ 70.  
7 Plaintiff alleges that "Defendants intentionally targeted Indians,  
8 and/or Indian natives in the making of loans on terms less  
9 favorable then [sic] their Caucasian counterparts." Id. ¶ 71.  
10 These allegations are mere legal conclusions. They do nothing  
11 more that recite some of the elements of the cause of action, and  
12 Singh provides the Court with no factual detail to show that his  
13 reverse-redlining claim is plausible. See Greenpoint, 2009 WL  
14 2137393, at \*5 (dismissing reverse-redlining claim in foreclosure  
15 case where plaintiff "leanly recites the elements of the claim in  
16 her complaint"). The sixth cause of action is DISMISSED WITH  
17 LEAVE TO AMEND.

18 **F. Seventh Cause of Action for Breach of the Implied**  
19 **Covenant of Good Faith and Fair Dealing**

20 Plaintiff alleges Defendants breached the implied covenant of  
21 good faith and fair dealing by failing to take steps to verify  
22 Plaintiff's income, by failing to provide proper and accurate  
23 disclosures, by approving the loan applications based on  
24 information known to be false, by failing to disclose that  
25 Plaintiff was likely to default, and by misleading Plaintiff as to  
26 the fees associated with the loan. Compl. ¶ 77. Most of these  
27 alleged failures would appear to have occurred when the contract  
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1 was being negotiated. Failures that affect the formation of the  
2 contract, rather than its performance or enforcement, cannot be  
3 used to state a claim for breach of the implied covenant of good  
4 faith and fair dealing. McClain v. Octagon Plaza, LLC, 159 Cal.  
5 App. 4th 784, 799 (Ct. App. 2008). Plaintiff also alleges that  
6 Defendants failed to make required disclosures "after the loans  
7 were consummated," Compl. ¶ 77, but these allegations are too  
8 conclusory, and they do not have enough factual support to survive  
9 a motion to dismiss. Plaintiff's seventh cause of action is  
10 DISMISSED WITH LEAVE TO AMEND.

11 **G. Tenth Cause of Action - Rescission/Cancellation**

12 Plaintiff's tenth cause of action is grounded in his claim  
13 that Defendants committed fraud. Plaintiff alleges that his  
14 consent to the loan was obtained by Defendants "through mistake  
15 and fraud by engaging in deceptive practices." Compl. ¶ 89. He  
16 alleges that Defendants made fraudulent representations and he  
17 seeks to rescind or cancel his contract on that basis. Id. ¶¶ 91-  
18 94. Since the Court has already dismissed Plaintiff's cause of  
19 action for fraud, Plaintiff's tenth cause of action must also be  
20 DISMISSED WITH LEAVE TO AMEND.

21 **H. Twelfth Cause of Action for Unfair Business Practices**

22 In his Opposition, Plaintiff states he will not pursue a  
23 claim under "[t]hose portions of the Twelfth Cause of Action for  
24 Unfair Business Practice based on violations of California  
25 Business and Professions Code section 17500, et seq." Opp'n at 1.  
26 The only other basis for an unfair business practices claim is the  
27 allegation that Defendants violated California Business and  
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Professions Code sections 17200 et seq. See Compl. ¶¶ 115.

Plaintiff states that Defendants violated section 17200 by:

[U]sing bait and switch tactics; making loans without providing borrowers with sufficient, accurate and understandable information regarding the terms and conditions of the loan; making loans without providing borrowers with sufficient, accurate and understandable information regarding the nature and extent of the financial risk being assumed by the borrowers; and making loans without regard to the financial ability of the borrower to pay.

Id. ¶ 117. Plaintiff further alleges that "the conduct of Defendants threatens an incipient violation of various consumer protection statutes, or which violate the policy or spirit of such laws . . . ." Id. ¶ 118.

This cause of action is derivative of some other illegal conduct or fraud committed by a defendant, and "[a] plaintiff must state with reasonable particularity the facts supporting the statutory elements of the violation." Khoury v. Maly's of California, Inc., 14 Cal. App. 4th 612, 619 (Ct. App. 1993). The underlying wrongs that Plaintiff is alleging are based on discrimination and fraud. See Opp'n at 7. The Court has already found that Plaintiff has not sufficiently alleged fraud, and Plaintiff also fails to plead with reasonable particularity the facts to support a claim for racial discrimination. Nor does Plaintiff plead with particularity or describe how Wells Fargo or First American violated any other statute or policy. Therefore, this cause of action is DISMISSED WITH LEAVE TO AMEND.

#### **I. Unjust Enrichment**

Wells Fargo moves to dismiss Plaintiff's claim for unjust

1 enrichment on the ground that no such cause of action is  
2 recognized in California. Mot. at 9-10. Wells Fargo is correct.  
3 See Hafiz, 2009 WL 2029800 at \*4 (dismissing unjust enrichment  
4 claim in foreclosure case without leave to amend); see also Jogani  
5 v. Super. Ct., 165 Cal. App. 4th 901, 911 (Ct. App. 2008)  
6 ("[U]njust enrichment is not a cause of action"); Melchior v. New  
7 Line Prods., Inc., 106 Cal. App. 4th 779, 793 (2003) ("The phrase  
8 'Unjust Enrichment' does not describe a theory of recovery, but an  
9 effect: the result of a failure to make restitution under  
10 circumstances where it is equitable to do so."). Plaintiff  
11 alleges that by entering into this mortgage loan transaction and  
12 by attempting to conduct a foreclosure, Defendants were unjustly  
13 enriched. Compl. ¶¶ 129-130. Plaintiff fails to explain how  
14 Defendants could have been unjustly enriched under circumstances  
15 where Plaintiff has defaulted on his loan. The Court therefore  
16 DISMISSES the fourteenth cause of action for unjust enrichment  
17 WITHOUT LEAVE TO AMEND.

18 **J. Quiet Title**

19 Wells Fargo moves to dismiss Plaintiff's quiet title claim on  
20 several grounds. Mot. at 10. Although Plaintiff's Statement of  
21 Issues raises the question of whether a borrower can quiet title,  
22 his Opposition contains no further discussion of his sixteenth  
23 cause of action. See Opp'n. Thus it is unclear whether Plaintiff  
24 wishes to pursue this claim. Furthermore, to assert a quiet title  
25 claim, the Complaint must be verified. Cal. Code Civ. Proc.  
26 § 761.020. Singh's Complaint is not verified. Accordingly, the  
27 Court DISMISSES the quiet title claim WITH LEAVE TO AMEND.

V. CONCLUSION

For the reasons stated above, the Court DISMISSES the following causes of action WITHOUT LEAVE TO AMEND as to both Wells Fargo and First American:

1. Those portions of the first cause of action for declaratory relief that concern possession of the promissory note, placement of the note in a trust pool, and fraud on the court;
2. The third cause of action for civil conspiracy;
3. The eighth cause of action for violation of California Civil Code sections 1920 and 1921;
4. The ninth cause of action for violation of California Civil Code section 1916.7;
5. Those portions of the twelfth cause of action for unfair business practice based on violations of California Business and Professions Code section 17500 et seq.;
6. The thirteenth cause of action for breach of fiduciary duty;
7. The fourteenth cause of action for unjust enrichment; and
8. The fifteenth cause of action for injunctive relief.

The Court DISMISSES the following causes of action WITH LEAVE TO AMEND as to both Wells Fargo and First American:

1. The eleventh cause of action for fraud;
2. The first cause of action for declaratory relief to the extent it is based on allegations of fraud;
3. The second cause of action for an accounting;

4. The fourth cause of action for violation of RESPA;
5. The fifth cause of action for violation of ECOA;
6. The sixth cause of action for violation of the FHA;
7. The seventh cause of action for breach of the covenant of good faith and fair dealing;
8. The tenth cause of action for rescission or cancellation of the contract;
9. The twelfth cause of action for violation of California Business and Professions Code sections 17200 et seq.;
- and
10. The sixteenth cause of action to quiet title.

An Amended Complaint must be filed within thirty (30) days of this Order. Many of the allegations here are boilerplate allegations that have been filed in other actions in this District in almost identical form. See, e.g., GreenPoint, 2009 WL 2137393; Aurora, 2009 WL 2029800; Lomboy v. SCME Mortgage Bankers, No. 09-1160, 2009 WL 1457738 (N.D. Cal. May 26, 2009). Such a practice strongly suggests to the Court that Plaintiff is unable to state plausible claims for relief, and is merely seeking to forestall a legitimate foreclosure process. Plaintiff is strongly encouraged to bring only those claims that have, or are likely to have, evidentiary support. See Fed. R. Civ. P. 11(b)(3).

IT IS SO ORDERED.

July 30, 2009



UNITED STATES DISTRICT JUDGE